

REMARKS

Claim 16 has been amended and new claim 20 has been added. The application now includes claims 1-20.

Claim 16 has been amended to overcome the rejection by eliminating the language beginning with “preferably”. New claim 20 presents the subject matter deleted from claim 16.

Claims 1-9 and 11-19 have been rejected as being obvious over U.S. Patent 5,609,162 to Blumentritt in view of French Patent 2,802,795 to Mariani. This rejection is traversed.

The undersigned notes that the Blumentritt reference is owned by the same applicant of the present application and that includes some of the same inventors. The present application constitutes a patentably distinct improvement on the earlier Blumentritt apparatus described in U.S. Patent 5,609,162.

U.S. Patent 5,609,162 discloses a one piece measuring plate 1 which is mounted on measuring cells 3 and on which the feet 5 of a patient will rest during measurement. Thus, U.S. Patent 5,609,162 describes a one piece measuring device having the bearing surfaces on one side of the plate and the measuring cells on the other side (e.g., the underside) of the plate.

The claimed invention features lifting devices which are arranged under the bearing surfaces and above the support plate. See particularly, Figures 1 and 2 of the application showing the bearing surfaces 10 under the person’s feet over top of the lifting devices on plate 1 which rests on the measuring cells (which can be pressure, force or movement sensors-see page 5, lines 34 and 35). Consequently, the construction of the present invention is from top to bottom:

- bearing surfaces
- lifting devices
- support plate
- measuring cells

The Examiner has acknowledged that Blumentritt does not show lifting devices on the support plate, a spindle with planetary gear configuration or the specific diameter of the spindle screw. The undersigned agrees that these and other features are not shown in Blumentritt.

However, the Examiner has suggested the Mariani discloses four bearing surfaces with measurement cells, and lifting devices arranged on a support plate and under the bearing surfaces (Figure 4). This is not correct.

It is the position of the undersigned that Mariani discloses a control device for a patient's posture which has the following top to bottom configuration which is different from the claimed invention:

- bearing surfaces (4a)
- measuring cells (17)
- support plate (8) (plaque porteuse)
- lifting devices (5—the entire mechanism; “organe de déplacement” including the elements 12, 13, 14, 15 and 16, etc.)

Thus, the assessment of the various elements of Mariani presented in the office action is incorrect. A French to English translation of Mariani has not been provided by the USPTO, and if the rejection is repeated, the Examiner is requested to provide a translation and show where the propositions of the Examiner are supported in Mariani.

Claim 1 of the present application requires a support plate mounted on measurement cells. Mariani clearly does not teach this configuration as the measurement devices 17 are directly under the bearing surfaces 4a. The present invention allows for detecting the body weight distribution bearing with the lifting heights of the lifting devices relating to the amount and the position of the weight force. As noted previously, Blumentrit, does not show or disclose lifting devices. Mariani operates differently from the claimed invention in that it allows only the detection of force values acting on the respective bearing surface. In order to evaluate a weight force distribution, calculations must be performed in Mariani (note 19a). In contrast, these calculations are not necessary with the present invention since the weight force distribution can be displayed directly. One of ordinary skill in the art would not modify the Blumentrit device to include the recited collection of features and organization of features recited in claim 1, as neither reference provides any guidance on how the modification would be made. That is, a combination of Blumentritt with Mariani may include the measurement cells above the support plate and under the bearing surfaces (see Figures of Mariani) in order to accommodate the operations of Mariani, and this is opposite

of what is required in claim 1 (e.g., a support plate mounted on the measurement cells). Similarly, if the combination were made as suggested by the Examiner, the combined element would have the lifting devices below the support plate in order to accomodate the operations of Marianni (the reverse would not be obvious to one of ordinary skill in the art because Blumentritt does not include any lifting devices, and thus does not suggest the reverse configuration). Thus, claim 1 and its dependent claims 2-20 would not be obvious over any combination of Blumentritt and Marianni.

With respect to the “official notice” and claim 13, it is noted that the prior art does not show or suggest the specified planetary gear configuration in the context of the measuring device of the present invention or of any other measuring device. This configuration offers space saving and other advantages which would not be recognized by one of ordinary skill in the art. Thus, whether or not a planetary gear configuration is “old”, use of such a device in the context of the invention is new and unobvious.

Further, with respect to claim 16 (and also claim 20), it is the position of the undersigned that claim 1 AND intervening claim 11 are not obvious over the prior art of record, thus, claims 16 and 20 are also not obvious. Moreover, since claim 11 is not obvious, the size of the spindle screw cannot properly be considered discovery of a “workable range”.

With respect to claims 5-9, it appears that the Examiner has mischaracterized the lifting devices shown in Mariani. Mariani does not show lifting devices which are parallel to each other.

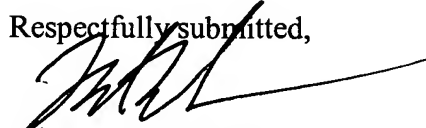
In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1-20 be allowed (claim 10 already having been identified as being drawn to allowable subject matter), and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any

fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis, Christofferson & Cook, P.C.)

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael E. Whitham', written over the typed name.

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